

Monday, May 3, 2010

Division One

A122435 – The People, v. Russell E. Rexrode.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J.
(Not for Publication.)

A126124 – The People, v. Raymond James Stephens.

There are no issues requiring further briefing. The judgment is affirmed.
Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A123314 – Kenneth D. Johnson, v. Tamara K. Threadgill.

By The Court: The petition for rehearing is denied. Margulies, Acting P.J.

Division Three

A126787 – The People, v. Jose Hugo Galicia.

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J.
(Not for Publication.)

Division Five

A126580 – Stanley Howe, v. Kenneth Youngreen.

The judgment (order granting husband's petition) is affirmed. Husband's motion for sanctions is denied. Son is ordered to pay husband's ordinary costs on appeal.
Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

Wednesday, May 5, 2010

Division One

A124714 – Julie Wang, v. Stimmel, Stimmel & Smith et al.

The orders of September 23, 2008, February 5, 2009, February 9, 2009, April 22, 2009, and May 11, 2009, are affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

Division Two

Wednesday, May 5, 2010(Continued)

A122043 – The People, v. Alexander Balbuena.

The abstract of judgment shall be modified to strike the two 25-year-to-life enhancements pursuant to section 12022.53, subdivision (d), and replace each with a term of 20 years pursuant to section 12022.53, subdivision (c). As so modified, the judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

A127477 – In re Joseph S., a Person Coming Under the Juvenile Court Law. The People, v. Joseph S.

The judgment sustaining the petition and the disposition are affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A123659 – The People, v. Jeffrey Daniel Norton.

The judgment is affirmed. The matter is remanded to the trial court with instructions to amend the abstract of judgment to reflect the additional credit to which Norton is entitled and to deliver a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Certified for Partial Publication.)

Division Four

A125024 – In re Joseph P., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services, v. C.J.

The juvenile court orders are affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A125836 – The People, v. John DeWood.

There are no meritorious issues to be argued on appeal. The judgment is therefore affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Thursday, May 6, 2010

Division One

A125774 – In re T.B., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services, v. C.B.

Thursday, May 6, 2010(Continued)

The order of the juvenile court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A123193 – The People, v. Richard Miller.

The judgment is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A126622 – The People, v. Derek D. Vuong.

The judgment is affirmed. Banke, J., We Concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

A125574 – In re D.N., a Person Coming Under the Juvenile Court Law. The People, v. D.N.

Accordingly, the judgment is affirmed. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

A125697 – John Doe, Jr., v. Joy Conde et al.

The order is affirmed.¹ Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

¹ The “request for judicial notice” included in respondent’s brief is denied.

A125567 – Steve Rossa et al., v. D.L. Falk Construction, Inc.

The order is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Four

A126169 – In re Luis C., a Person Coming Under the Juvenile Court Law. The People, v. Luis C.

The orders of the juvenile court are affirmed. But the matter is remanded for an express finding pursuant to section 702 as to whether the count three assault with force likely to produce great bodily injury is a felony or a misdemeanor. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A126071 – Estate of Bud Herman Krusi, Deceased. Barbara “Bobbie” Simi, v. Paul Krusi.

Thursday, May 6, 2010(Continued)

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A123042 – The People, v. Antonio Plascencia Pelayo.

The judgment is reversed as to the calculation of presentence custody credits only. On remand, the trial court shall revise its sentencing order and the abstract of judgment to reflect that Pelayo earned 980 days of presentence custody credits pursuant to section 4019 and forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication.)

Friday, May 7, 2010

Division One

A122888 – The People, v. Marquis Rashawn Douglas.

By The Court: The petition for rehearing is denied. Margulies, Acting P.J.

Division Four

A121156 – The People, v. Oscar Odell Webb, Jr.

The judgment is modified to reflect that defendant is entitled to presentence credits of 662 actual days and 99 conduct days total for presentence credits of 761 days. The trial court is directed to prepare an amended abstract of judgment and to forward a copy to California's Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A126262 – Chris McGee, v. Pratik Patel.

The trial court's order is affirmed. Respondent shall recover his costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A124287 – The People, v. Mark Edwin Sunnergren.

The judgment is modified to strike one of the section 667.5, subdivision (b) enhancements that was imposed, and to strike the three section 667.5, subdivision (b) enhancements which were previously stayed. The judgment is further modified to delete the reference and term on a section 667.5, subdivision

Friday, May 7, 2010(Continued)

(a) enhancement and to reflect the imposition of five-year terms on two section 667, subdivision (a)(1) enhancements. The trial court is directed to prepare an amended abstract of judgment and to forward a copy to California's Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A126006 – The People, v. Dwayne Dusuau.

The judgment is reversed and the matter is remanded with directions to the trial court to order the preparation of and consider a supplemental probation report, and, if appropriate, to resentence appellant. On remand, the court should determine the amount of custody credits due appellant and the abstract of judgment should be ordered corrected to reflect that amount. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Monday, May 10, 2010

Division Three

A126102 – In re N.E., a Person Coming Under the Juvenile Court Law. The People, v. N.E.

The declaration of wardship is reversed and the case is remanded for reconsideration and clarification consistent with the views expressed in this opinion.
Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT, DIVISION FOUR
Monday, May 10, 2010

The Court convened at 9:31 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Tom Lipsey, , Bailiff.

- A122485 California School Boards Association Et Al.,
 v.
 California State Board Of Education And Aspire Public Schools Inc.
Cause called. Deborah Caplan argued for appellant California School Boards Association. Benjamin Riley argued for respondent California State Board of Education. Paul Minney argued for real party in interest Aspire Public Schools. Cause submitted.
- A125364 In re V.G., a Minor.

People
v.
V.G.,
Cause called. Kate Chatfield argued for appellant V.G. Christopher Grove argued for respondent State of California. Cause submitted.
- A123061 People
v.
Anthony Cape
Cause called. David Sundelson argued for appellant Cape. Seth Schalit argued for respondent State of California. Cause submitted.
- A124970 Dennis Judd
v.
Paul Perdue
Cause called. Peter Goldstone argued for appellant Judd. Respondent Perdue, in propria persona, did not appear. Cause submitted.
- A125457 People
v.
Dillon Williams
Cause called. Stephanie Clarke argued for appellant Williams. Margo Yu argued for respondent People of the State of California. Cause submitted.

Court in recess at 11:14 a.m.

Monday, May 10, 2010(Continued)

Division Five

A120725 – The People, v. Glenn Flynn Wilson.

The judgment is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Tuesday, May 11, 2010

Division Two

A125409 – In re W.W, a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. N.W.

The order appealed from is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A125349 – The People, v. Yvette Hollie.

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A123755 – The People, v. Jeffrey Angel Romero.

The judgment is affirmed. Siggins, J., I Concur: Jenkins, J. (See Concurring Opinion by Pollak, Acting P.J.) (Not for Publication.)

A124262 – Michael and Katherine Querard, v. Country Wide Home Loans, Inc.

The judgment dismissing the action is reversed. The matter is remanded with directions that the trial court vacate its orders sustaining Countrywide's general

demurrers to the first, second and third causes of action of the first amended complaint. The order sustaining without leave to amend the general demurrer to the seventh, tenth and eleventh causes of action of the first amended complaint is affirmed. The orders sustaining Countrywide's demurrers to other causes of action not challenged on appeal are also affirmed. Nothing herein precludes the trial court, on its own motion or motion of the parties, from authorizing or requiring the filing of a further amended complaint to clarify the allegations of the surviving causes of action consistent with this opinion. The parties shall bear their respective costs on appeal. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Tuesday, May 11, 2010(Continued)

A124661 – Ridgewater Associates LLC, v. Dublin San Ramon Services District.

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Certified for Partial Publication.)

Division Four

A124274 – The People, v. Gabriel Jason Cavazos.

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A122005 – Gurson S. Dang, v. Madeleine Murphy et al.

The trial court's judgment and its orders awarding attorney fees are affirmed. Respondents shall recover their costs on appeal, but inasmuch as respondents have not requested an award of attorney fees on appeal, the award of costs on appeal does not include attorney fees. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, May 11, 2010

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J.; Reardon, J.; Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Bobby Singh, Bailiff.

A123316 River Garden Retirement Home
 v.
 California Franchise Tax Board
Cause called. Edwin Antolin and Amy Silverstein argued for appellant Home. David Lew argued for respondent. Cause submitted.

For the next two cases, the court reconstituted itself to include Ruvolo, P.J.; Reardon, J.; and Sepulveda, J.

A126108 Norman Runyan
 v.
 River Rock Entertainment
Cause called. David S. Secrest argued for appellant Runyan. Frank Lawrence argued for respondent. Cause submitted.

A124665 Musser Properties
 v.
 City of Sebastopol et al.
 Donald Hendrix et al.
Cause called. Keith Kessler argued for appellants City et al. Anthony Rodriguez argued for respondent. Cause submitted.

Court recessed at 10:36 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, May 11, 2010

The Court reconvened at 1:32 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J., Reardon, J., and Sepulveda, J.; Annie Reasoner, Deputy Clerk; CHP Officer Jeff Davidson, Bailiff.

A127285 Peter A. Benson,
and v.
A127305 The Superior Court Of San Mateo County; Isolina Picon, Real Party in Interest

County Of San Mateo
 v.
Superior Court Of San Mateo County; Isolina Picon, Real Party in Interest.

Cause called. Ayanna Jenkins-Toney argued for real party in interest Isolina Picon. Joseph Gharrity argued for petitioner Peter A. Benson. B. Thomas French was also present on behalf of petitioner Benson, but did not address the court. David Silberman argued for petitioner San Mateo County. Causes submitted.

At this point, Ruvolo, P.J., left the bench and Rivera, J., joined the bench. Argument continued before Reardon, Acting P.J., Sepulveda, J., and Rivera, J.,

A124144 People
 v.
Robert Forest

Cause called. Jacques LeBoeuf argued for appellant Forest. Deputy Attorney General Stan Helfman argued for respondent State of California. Cause submitted.

The court adjourned at 2:15 p.m.

Tuesday, May 11, 2010(Continued)

Division Five

A122524 – The People, v. Patrick Jamal Higgins.

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J.
(Not for Publication.)

Wednesday, May 12, 2010

Division One

**A126224 – In re Tyrell S., a Person Coming Under the Juvenile Court Law.
The People, v. Tyrell S.**

The order continuing defendant's probation to age 21 is affirmed. Dondero, J.,
We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A123669 – People of The State of California, v. Jacob Lopez, Seneca
Insurance Company, R.P.I.**

By The Court: The petition for rehearing is denied. Margulies, Acting P.J.

A121158 – The People, v. Mark Anthony Fregia.

The judgment of conviction is affirmed. Marchiano, P.J., We Concur: Margulies,
J., Dondero, J. (Not for Publication.)

A123590 – The People, v. James P. Wright.

The judgment is affirmed. Banke, J., We Concur: Margulies, Acting P.J.,
Dondero, J. (Not for Publication.)

A125272 – The People, v. Tylo J. Felix.

The judgment is modified by striking the order for defendant to reimburse the
county for the costs of his defense. In all other respects the judgment is affirmed.
Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A126321 – The People, v. Michael John Peirano.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Banke, J.
(Not for Publication.)

A124684 – Brandon Abbey, v. Fortune Drive Associates.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

Wednesday, May 12, 2010(Continued)

Division Two

A125831 – In re Joseph Calderon, on Habeas Corpus.

The petition for writ of habeas corpus is granted. The Governor is hereby ordered to vacate his decision of November 10, 2008, which reversed the Board's June 2008 grant of parole. The Board's June 2008 grant of parole is reinstated. In the interests of justice, this opinion is made final as to this court seven days from the date of filing. (Cal. Rules of Court, rule 8.264(b)(3).) Kline, P.J., We Concur: Lambden, J., Richman, J.
(Certified for Publication.)

A124566 – The People, v. Edwin Menjivar.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

Division Three

**A126034 – In re K.B., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency, v. Nicole B.**

The order denying Mother's petition for modification and terminating her parental rights is affirmed. Siggins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, May 12, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Siggins, J. and Jenkins, J.; and F. Castuera, Deputy Clerk.

A124167 The People,
v.
Robert Roy Garcia.
Cause called and argued by Frank Bell, counsel for appellant, and Linda Murphy, counsel for respondent. Cause ordered submitted.

A116637 Safeway Inc.,
v.
Pivotal Sales Company.
Cause called and argued by Raymond Cardozo, counsel for appellant and cross-respondent Safeway Inc., and Robert Eassa, counsel for respondent and cross-appellant. Cause ordered submitted.

At this point in the proceedings, Jenkins, J. left the bench and Pollak, J. joined the bench.

A125445 Broadway Foreclosure Investments LLC,
v.
Larnise Tarlessen.
Cause called and argued by Kevin Eikenberry, counsel for appellant, and Allison Ehlert, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, McGuiness, P.J. left the bench and Jenkins, J. rejoined the bench. Pollak, J. presided the last case.

A124143 The People,
A126334 v.
Douglas Gerard Brooks.
Cause called and argued by David Martin, counsel for appellant, and Dorian Jung, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, May 12, 2010(Continued)

Division Four

A124709 – Sandra Chew, v. Williams Lea, Inc.

The judgment is affirmed. Respondent shall recover its costs on appeal.
Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A127757 – F.B., v. The Superior Court of Contra Costa County, Contra Costa County Children & Family Services Bureau et al., R.P.I.

The petition is denied. In the interests of justice, this opinion shall be made final as to this court immediately upon filing. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

Thursday, May 13, 2010

Division Two

A125630 – The People, v. Forrest Fuller.

The trial court is directed to prepare an amended abstract of judgment reflecting an additional 40 days of presentence custody credit for a total custody credit of 160 days, and to forward a certified copy of said amended abstract to the Department of Corrections and Rehabilitation. As amended, the judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A125208 – Steven M. Roif, v. Blackhawk Country Club.

The order is affirmed. Costs on appeal are awarded to respondent. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A123433 – The People, v. Milton Nathaniel Hayes.

The judgment is affirmed. Reardon, J., We Concur: Ruvo, P.J., Rivera, J. (Not for Publication.)

Thursday, May 13, 2010(Continued)

Division Five

A124582 – The People, v. Clinton Sweet, Jr.

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A126423 – The People, v. Robert Thomas Guenther.

The matter is remanded to the trial court with directions to prepare amended minutes for the October 2, 2009 sentencing hearing, deleting the reference to the \$560 presentence report fee. The trial court is also directed to determine under section 1203.1b whether defendant has the ability to pay the \$560 presentence report fee recommended in the September 11, 2009 probation officer's report. The judgment is otherwise affirmed. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A125548 – In re Savannah Z. et al., Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. Santos Z.

The May 21, 2009 order is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

A126236 – Reynaldo A. Maldonado, v. The Superior Court of San Mateo County, The People, R.P.I.

A peremptory writ shall issue directing the trial court to vacate its September 8, 2009 order with respect to request number 5, 6, 7, 8 and 10 and enter new orders consistent with the views expressed in this opinion. Bruiniers, J., I Concur: Jones, P.J. (See Concurring Opinion by Needham, J.) (Certified for Publication.)

Friday, May 14, 2010

Division One

A127574 – M.T., v. Superior Court of California County of Del Norte, Del Norte County Department of Health and Human Services et al.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14: *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

Friday, May 14, 2010(Continued)

Division Two

A124562 – The People, v. Michael Dean Clements.

The order of March 18, 2009, committing defendant to prison is reversed, and the eight-year sentence vacated. The sentence imposed, with execution stayed, on October 28, 2004, is reinstated, as is the order of January 25, 2006, summarily revoking probation. The cause is remanded to the superior court for determination of its own jurisdiction to conduct further proceedings in this action. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

A124847 – Manique Weerasinghe, v Gates McDonald and Company.

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A124178 – The People, v. Nestor Mauricio Ferrer.

The trial court's orders granting defendant's motion to suppress and dismissing the information are reversed and the case is remanded for further proceedings consistent with this opinion. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Certified for Publication.)

Monday, May 17, 2010

Division Two

A126788 – The People, v. Donovan Dawaney Pierre.

Our independent review of the record reveals no arguable issues that require further briefing. Appellant's claim of ineffective assistance of counsel fails on this record because he entered his plea intelligently and voluntarily. The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A125546 – Noreen Cardinale, v. Daniel R. Miller, Jr., et al.

The order sustaining the demurrers and the judgments dismissing Knapp, CHL and Kenoyer are reversed and the action is remanded to the trial court for
Monday, May 17, 2010(Continued)

further proceedings. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

A125445 – Larnise Tarlesson, v. Broadway Foreclosure Investments, LLC.

The order of the trial court is affirmed. Siggins, J., We Concur: McGuinness, P.J., Pollak, J. (Certified for Publication.)

Division Five

A125758 – In re E.S., a Person Coming Under the Juvenile Court Law. The People, v. E.S.

By The Court: The petition for rehearing is denied. Simons, Acting P.J.

A126236 – Reynaldo A. Maldonado, v. The Superior Court of San Mateo County, The People, R.P.I.

By The Court: The opinion filed May 13, 2010, is modified on the court's own motion as follows: (See Order). This modification changes the judgment. Jones, P.J. (Certified for Publication.)

A125951, A127019 – In re Ja’liyah J., a Person Coming Under the Juvenile Court Law. Alameda County Social Services, v. Jasmine C.

We affirm the juvenile court’s August 4, 2009 order denying Mother’s July 10, 2009 section 388 petition; the court’s October 29, 2009 denial of Mother’s request for a five-week continuance; the court’s November 12, 2009 order terminating Mother’s parental rights. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A121975 – The People, v. David Alan True.

By The Court: The petition for rehearing is denied. Simons, Acting P.J.

Tuesday, May 18, 2010

Division Two

A125177 – The People, v. Scott Eugene Dietlin.

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A125922 – The People, v. Jan Montes.

Tuesday, May 18, 2010(Continued)

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A125277 – In re T.C., a Person Coming Under the Juvenile Court Law. The People, v. T.C.

The sustained finding of felony robbery is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A122970 – The People, v. Michael Ray Vaughn and Christopher Vaughn.

The judgments are affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A125831 – In re Joseph Calderon, on Habeas Corpus.

By The Court: It is ordered that the published opinion filed herein on May 12, 2010, be modified as follows: (See Order). Respondent's petition for rehearing is denied. Kline, P.J. (Certified for Publication.)

A122534 – Cypress Security, LLC, v. City and County of San Francisco et al.

By The Court: The opinion in the above-entitled matter filed on April 19, 2010 was not certified for publication in the Official Reports. For good cause, the request for publication by interested parties is granted. Pursuant to California Rules of Court, rules 8.1105 and 8.1120, the opinion in the above-entitled matter is ordered certified for publication in the Official Reports. Kline, P.J. (Certified for Publication.)

Division Four

A125655 – The People, v. Joseph Menchaca.

The abstract of judgment is ordered corrected to reflect that the three-year enhancement is under Health and Safety Code section 11370.2, subdivision (a). In all other respects the judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A116412 – Mary Musaelian, v. William L. Adams, et al. John G. Warner, R.P.I.

The order appealed from is reversed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, May 18, 2010(Continued)

A124986 – Onebeacon Insurance Company, v. Pankow Residential Builders II, LP.

The judgment is affirmed. Pankow shall recover its costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Tuesday, May 18, 2010

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Bruiniers, J., and Eric F. Cyman, Deputy Clerk.

A123012 The People,
 v.
 Willie Earl Latimore,
Cause called and argued by John Wilder Lee, counsel for appellant, and by Aileen Bunney, counsel for respondent. Cause ordered submitted.

A126384 City of Eureka,
 v.
 Floyd E. Squires et al.,
Cause called and argued by Bradford C. Floyd, counsel for appellant, and by Sheryl Schaffner, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Bruiniers left the bench and Justice Simons entered.

A124662 The People,
 v.
 Frederick D. Kilmer,
Cause called and argued by John F. McCabe II, counsel for appellant, and by Violet Lee, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Bruiniers entered.

A126139 Michelle Livengood,
 v.
 Workers' Compensation Appeals Board,
 AIG Domestic Claims, Inc.,
Cause called and argued by James E. Vandersloot, counsel for petitioner, and by Kimberlie Revai, counsel for respondent. Cause ordered submitted.

A122443 The People,
 v.
 Kalvin Winters,
 Charles Earl Grtanderson,
 Cause called and argued by Guy A. Campisano Jr., and Robert S. Condie,
 counsel for appellants, and by Bridget Billeter, counsel for respondent. Cause
 ordered submitted.

A125250 Lonna A. Wais,
A125285 v.
 Robert L. Farmer,
 Causes called and argued by Deirdre Maria Digrande, counsel for appellant, and
 by Matthew P. Matiasovich, counsel for respondent. Causes ordered submitted.

Court adjourned at 11:00 a.m.

Thursday, May 20, 2010

Division Two

A126065 – In re Marilyn T., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services, v. Antoine T. et al.

The order is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A125788 – The People, v. Anthony James Baker.

The order of dismissal is reversed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A125852 – In re Jose S., a Person Coming Under the Juvenile Court Law. The People, v. Joe S.

The discretionary conditions of probation imposed by the court shall be stricken and the commitment form amended in accordance with the above. The court shall forward copies of all such amended records to the DJJ. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A125330 – In re S.F., a Person Coming Under the Juvenile Court Law. The People, v. S.F.

The juvenile court's dispositional order is affirmed. Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Four

A123862 – William W. Lee, v. North Bay Construction, Inc.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A123026 – The People, v. Jaquan Tarrell Jones.

The judgment is modified to give defendant credit for an additional day in presentence custody, for a total of 708 days. The trial court is directed to prepare an

amended abstract of judgment and to forward a copy to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A123892 – Wade Anthony Robertson, v. Department of Motor Vehicles.

Thursday, May 20, 2010(Continued)

The judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, May 21, 2010

Division One

A125711 – The People, v. Gabriel Eugene Schnabel.

The judgment of conviction is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J., (Not for Publication.)

Division Three

A124167 – The People, v. Robert Roy Garcia.

The sentence is modified to strike the enhancement imposed for a prior serious of violent felony conviction. In all other respects, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment reflecting the sentence as modified and to forward a certified copy thereof to the Department of Corrections. Siggins, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

A126473 – In re M.G., a Person Coming Under the Juvenile Court Law. The People, v. M.G.

M.G.'s gang-related probation conditions are modified to provide: "You are not to associate with any person whom you know, or whom the probation officer informs you, is a gang member. . . . The word gang as used in these conditions means a criminal street gang as defined in Penal Code section 186.22, subdivisions (e) and (f). You are not to wear, possess, or display any jewelry, clothing, or other paraphernalia that you know, or that the probation officer informs you, is evidence of affiliation with or membership in a gang. Nor are you display any signs or gestures. You are not to participate in any activities that you know, or that the probation officer informs you, are

gang activities.” As so modified, the judgment is affirmed. Siggins, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

Division Four

A121903 – The People, v. Wayne W. Buntyn.

The matter is remanded to the trial court with directions to recalculate the defendant’s credits under amended section 4019. The trial court shall then prepare an amended abstract of judgment, and forward a copy to the Department of

Friday, May 21, 2010(Continued)

Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for publication.)

A124665 – Musser Properties, L.P., v. City of Sebastopol et al., Donald Hendrix et al., R.P.I.

The judgment is affirmed. Respondent shall recover its costs on appeal. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A125890 – Victor Linares, v. Richard Green et al.

The order dismissal is reversed and the matter is remanded to the trial court for further proceedings. In the interests of justice, the parties are to bear their own costs on appeal. (Rule 8.278(a)(5).) Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

A123367 – The People, v. Daniel Adrian McGillicuddy.

By The Court: The petition for rehearing is denied. Jones, P.J.

Monday, May 24, 2010

Division Three

A124143 – The People, v. Douglas Gerard Brooks.

A126334 – In re Douglas Gerard Brooks, On Habeas Corpus.

Having previously granted the petition for writ of habeas corpus, we now reversed appellant's conviction on grounds of ineffective assistance of counsel and remand this matter to the trial court for a new hearing on appellant's motion to suppress evidence. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

A124947 – AT&T California, v. Public Utilities Commission, Utility Consumers' Action Network, R.P.I.

California Public Utilities Commission Decision No. 08-08-017, as modified by Decision No. 09-04-036, is annulled only as to Conclusion of Law No. 5 (which concludes AT&T violated section 2883(a) by failing to provide 911-only services to new residences), and Conclusion of Law No. 7 (which concludes AT&T violated section 2883(c)), and is otherwise affirmed. AT&T's petition for review is deemed summarily denied as to all other issues raised in that petition, as of the date of finality of this opinion. The parties shall bear their own costs. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Monday, May 24, 2010(Continued)

A126024 – The People, v. David Anthony Williams.

The judgment is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Tuesday, May 25, 2010

Division One

A125873 – In re the Marriage of Bernadette Marie and Donald Dean Hole. Bernadette Marie Hole, v. Donald Dean Hole.

The judgment is affirmed and respondent awarded costs on appeal. Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A128033 – P.M., v. Superior Court of Solano County, Solano County Department of Child Welfare Services et al., R.P.I.

A128034 – S.W., v. Superior Court of Solano County, Solano County Department of Child Welfare Services et al., R.P.I.

The petitions for extraordinary writ are denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. Dondero, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

A125083 – The People, v. Michael Anthony Billingsley.

This matter is remanded to the trial court for reconsideration and resentencing. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

A122757 – Akali Igbene, v. Jackson Federal Bank et al.

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

A125712 – The People, v. Jimmy Alan Cornelius.

The judgment appealed from is affirmed. The case is remanded to the trial court for consideration of the issue of whether appellant is entitled to a recalculation of presentence work and conduct credits under amended Penal Code section 4019 and, is so, to undertake such a recalculation. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Tuesday, May 25, 2010(Continued)

A124901 – Anna Marie Smallwood, v. Fremont Surgery Center Medical Clinic, Inc.

The judgment is affirmed. Smallwood is to pay the costs of appeal. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A124467 – Estate of James Trejo Flores, Deceased. Ronnie Flores, v. Elizabeth Gomez, Rosa Flores-Hart, as Executor, etc.

The probate court's March 4, 2009, order of preliminary distribution is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A121746 – The People, v. Paul Murray.

The judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

A124970 – Dennis Judd, v. Paul Edwin Perdue.

The judgment is affirmed. Perdue shall recover his costs on appeal. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A126422 – The People, v. Karla Suzanne Morgan.

Judgment affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A125270 – The People, v. Michael Anthony Henry, Jr.

Due to the application of the good faith exception to the exclusionary rule, the evidence seized from defendant's vehicle during the warrantless search incident to his arrest should not be suppressed, and defendant's motion to suppress was therefore properly denied. The judgment is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Certified for Publication.)

A126978 – The People, v. Howard Lawrence Webber, Jr.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A122151 – City of Santa Rosa et al., v. Raman D. Patel et al.

The judgment is modified to reduce the monetary award to \$434,500 (\$504,500-\$70,00-the amount attributable to the disgorgement of profits). In all other respects, the judgment is affirmed. The City to recover its costs on appeal. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Tuesday, May 25, 2010(Continued)

A127285 – Peter A. Benson, v. The Superior Court of San Mateo County, Isolina Picon, R.P.I.

A127305 – County of San Mateo et al., v. The Superior Court of San Mateo County, Isolina Picon, R.P.I.

Let a peremptory writ of mandate issue directing the trial court to vacate its orders denying defendants' motions for summary judgment. Instead the court shall issue new orders granting those motions. Defendants are entitled to recover their costs for this proceeding. (Cal. Rules of Court, rule 8.493(a)(1)(A).) Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A124531 – Save the Laguna Street Campus, v. City and County of San Francisco et al., A.F. Evans Development, Inc., et al., R.P.I.

The trial court's judgment is affirmed. Costs to respondents. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A123012 – The People, v. Willie E. Latimore.

The judgment is modified to include an award of 190 days of presentence conduct credit pursuant to Penal Code section 2933.1. The trial court shall prepare an amended abstract of judgment and shall forward a certified copy to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. Needham, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Wednesday, May 26, 2010

Division One

A124699 – In re G.L., a Person Coming Under the Juvenile Court Law. The People, v. G.L.

The dispositional order is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

Division Two

A125399 – The People, v. John C. Warner.

The judgment and sentence imposed are both affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Wednesday, May 26, 2010(Continued)

Division Four

A126108 – Norman Runyan, v. River Rock Entertainment Authority et al.

The judgment is affirmed. Costs on appeal are awarded to River Rock. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A126186 – The People, v. Gregory Taylor.

The judgment is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Division Five

A126226 – In re Delilah B. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau, v. Michelle B. et al.

The order terminating the appellants' parental rights is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

A125264 – Haight Ashbury Free Clinics, Inc., v. Happening House Ventures et al.

The order denying the SLAPP motion is vacated and the trial court is directed to enter a new order granting the motion. Because HHV and Smith should have prevailed on the SLAPP motion, they are also entitled to the fees and costs they incurred both in the trial court and on appeal. (§ 426.16, subd. (c); *Anschutz Entertainment Group, Inc. v. Sneep* (2009) 171 Cal.App.4th 598, 643.) The trial court should determine the amount. Jones, P.J., I Concur: Bruiniers, J. (See Concurring Opinion by Needham, J.) (Certified for Publication.)

A123694 – The People, v. Richard Huerta.

The judgment is affirmed. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Thursday, May 27, 2010

Division One

A119963 – The People, v. Anthony Rosier Wilson.

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Thursday, May 27, 2010(Continued)

A125317 – The People, v. Mark Edward Matute.

The orders denying the motions to vacate the judgments and withdraw the no contest pleas are affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

A125107 – The People, v. Xavier Garcia.

The case is remanded to the trial court to determine, in accordance with the views expressed in *McKee*, whether the People can demonstrate constitutional justification for imposing on SVP's a greater burden to obtain release from indeterminate commitment than is imposed on MDO's and NGI acquittees. In all other respects, the order of commitment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Banke, J. (Not for Publication.)

Division Two

A126706 – The People, v. Francisco Willa-Mora.

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A124840 – The Housing Group et al., v. Empire Indemnity Insurance Company.

By The Court: The requests for publication of this court's opinion, filed April 30, 2010, is denied because the opinion (1) establishes no new rule of law, nor does it alter or modify an existing rule; (2) involves no legal issue of outstanding public interest; (3) does not criticize existing law; and (4) does not meet any of the other criteria for publication set forth in rule 8.1105(c) of the California Rules of Court. Pursuant to rule 8.1120(b) of the California Rules of Court, the clerk is directed to forward to the Clerk of the Supreme Court the requests for publication, the opinion, and a requests be denied by the Supreme Court. Appellants' petition for rehearing is denied. McGuiness, P.J.

A125167 – Amy Lynn Baillie, v. Processing Solutions, LLC et al.

The trial court's order denying defendants' motion to stay court proceedings and compel arbitration is affirmed. Defendants and appellants Processing Solution, LLC et al., shall bear costs of appeal. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

A116637 – Safeway, Inc., v. Pivotal Sales Company, et al.

The judgment and order denying the parties' respective motions for judgment notwithstanding the verdict are affirmed. The parties' appeals from the

Thursday, May 27, 2010(Continued)

order denying their respective motions for a new trial are dismissed. The parties shall bear their own costs. McGuinness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A125260 – Peter Childress, v. William Murphy.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A126453 – In re Whitney D., a Person Coming Under the Juvenile Court Law. The People, v. Whitney D.

The disposition is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A124870 – The People, v. Robert Manalese Armour.

The superior court shall amend the abstract of judgment to reflect the prison term actually imposed by the court at sentencing: the three-year middle term for the robbery under count 1 A; an eight-month consecutive sentence (one-third the middle term) for the grand theft under count 3A; a concurrent 16-month lower term sentence for the grand theft under count 4A; a one-year consecutive term for the robbery under count 5A (one-third the middle term); and a concurrent 16-month lower term sentence for possession of a controlled substance under count 1B. The amended abstract should also reflect 198 days in presentence credits awarded by the trial court. A copy of the amended abstract shall be forwarded to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

A126143 – The People, v. Paul Kenneth McElroy.

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A126619 – In re Henry R., a Person Coming Under the Juvenile Court Law. The People, v. Henry R.

The order is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A126653 – The People, v. Jim Donald Smith.

Thursday, May 27, 2010(Continued)

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, May 28, 2010

Division One

A127100 – Michael Gressett, v. The Superior Court of Contra Costa County, The People et al., R.P.I.

The superior court did not abuse its discretion when it held that defendant failed to establish good cause to depart from the statutory scheme for appointment of assigned counsel specified in section 987.2. Therefore, the alternative writ is discharged, and the petition for writ of mandate is denied. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Certified for Publication.)

A126275 – Narinder Sangha, v. C. Edward Schrader.

The order issuing a protective order under the Domestic Violence Prevention Act is affirmed. Banke, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

A127314 – The People, v. Noah Michael Parker.

The sentence imposed is authorized by law. Our independent review having revealed no arguable issues that require further briefing, the judgment of conviction and sentence are affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A123486 – City of Larkspur, v. Jacobs Engineering Group, Inc.

The judgment is affirmed. Larkspur is awarded the costs of appeal. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A125252 – Jeynitha Richardson, v. City and County of San Francisco.

The judgment is affirmed. Respondent shall recover its costs on appeal.
McGuinness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A124029 – Leslie Handler, v. Steven Ohlhaber and Elizabeth Ross.

Friday, May 28, 2010(Continued)

The judgment is affirmed. Defendants shall recover their costs on appeal.
McGuinness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A123285 – The People, v. Darrel Watson.

The abstract of judgment is modified to award defendant 244 days of presentence conduct credit and to reflect imposition of two section 667.5, subdivision (b) enhancements rather than two section 667.5, subdivision (c) enhancements. The trial court is directed to prepare an amended abstract of judgment and to forward a copy to California's Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A126728 – The People, v. Donald Lee Doss.

Judgment affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A126130 – Benito Garcia, v. Department of Motor Vehicles.

The judgment is affirmed. Respondent is to recover its costs on appeal.
Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

A125529 – The People, v. Dana Demetrius Bairfield.

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A124965 – Lucky United Properties Investment, Inc., et al., v. Albert Lee.

The “Order Following Hearing on Cross-Motions,” filed in the trial court on February 6, 2009, is reversed as to the \$2,100 in attorney fees appellant sought in connection with the enforcement items set forth in his November 2006 memorandum of costs (item 1 (A) of the order), the \$335 item of costs set forth in his November 2006 memorandum of costs (in item 1(I) of the order), and respondents’ motion for satisfaction of judgment (item 2 of the order). In addition, we vacate those portions of the order pertaining to appellant’s attorney fees and costs incurred in bringing his motion (item 1 (F) of the order) and the offset of the awards (item 3 of the order). The matter is remanded for further proceedings as set forth in this opinion and consistent with applicable law. (E.g., § 425.16, subd. (c).) Appellant shall recover his costs on appeal. Needham, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

Friday, May 28, 2010(Continued)

A126384 – City of Eureka, v. Floyd E. Squires et al.

The order granting a preliminary injunction is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)